

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6609**

**BILL NUMBER:** HB 1242

**NOTE PREPARED:** Dec 26, 2016

**BILL AMENDED:**

**SUBJECT:** Sentence Enhancement for Use of a Firearm.

**FIRST AUTHOR:** Rep. Hamm

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. It requires the state to seek to have a person who allegedly committed a felony sentenced to an additional fixed term of imprisonment of 10 years if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of the felony. It provides that if the state proves beyond a reasonable doubt that a person knowingly or intentionally used a firearm in the commission of a felony, the court is required to sentence the person to an additional fixed term of imprisonment of 10 years. It specifies that the additional fixed term of imprisonment is nonsuspendible.
- B. It prohibits a plea agreement from being made by a prosecuting attorney to a court if the plea agreement would prohibit: (1) the prosecuting attorney from seeking to have a person sentenced to the additional fixed term of imprisonment of 10 years; or (2) the court from sentencing a person to the additional fixed term of imprisonment of 10 years; if the state can show beyond a reasonable doubt that the person knowingly or intentionally used a firearm in the commission of a felony.
- C. It makes conforming amendments. It repeals superseded provisions.

**Effective Date:** July 1, 2017.

**Explanation of State Expenditures:** OFMA estimates that this bill will increase the number of full-time-equivalent offenders in Department of Correction (DOC) facilities beginning in 2019 and continuing for at least an additional decade *after* FY 2027.

The following table illustrates a range in the added population that would occur if more offenders are given an additional 10-year nonsuspendible sentence.

<b>Range in New FTE Population in DOC Facilities Required to Serve a Mandatory 10-Year Enhancement If an Offender Used a Firearm While Committing Another Crime</b>										
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Minimum	0	2	4	6	14	22	30	39	66	117
Maximum	0	2	4	6	20	34	48	63	106	184

OFMA identified offenders who were committed to DOC between January 1, 2011, and December 31, 2015, for offenses in which use of a firearm or handgun was listed as one of the additional crimes. Since the additional firearm offense was included in their records, OFMA assumed that these offenders would all receive a 10-year enhancement.

The average expenditure to house an adult offender was \$20,053 in FY 2016. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is \$3,058 annually, or \$8.35 daily, per prisoner. These marginal cost estimates are based on contractual agreements with food and medical vendors and projections based on prior years for clothing and hygiene. The estimated average cost of housing a juvenile in a state juvenile facility was \$89,725 in FY 2016.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** This bill could increase jury costs if a jury must reconvene to hear evidence in the enhancement hearing.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Prosecuting attorneys, trial courts.

**Information Sources:** DOC offender information system; DOC.

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